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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/385,412	08/30/1999	JEAN-MICHEL STURLA	5725.0470-01	9112
22852	7590	06/15/2004	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 1300 I STREET, NW WASHINGTON, DC 20005			LAMM, MARINA	
			ART UNIT	PAPER NUMBER
			1616	

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/385,412

Filing Date: August 30, 1999

Appellant(s): STURLA ET AL.

Adriana K. Burgy
For Appellant

*mailed date
6. 15 - 04*

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/6/04.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims 1-29 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) ClaimsAppealed

A substantially correct copy of appealed claims 1-29 appears on pp. 12-18 of the Appendix to the appellant's brief. The minor errors are as follows: the word "salts" in Claim 1 is misspelled. See line 18 of the claim.

(9) Prior Art of Record

5,643,581	MOUGIN et al.	7-1997
5,125,546	DUNNE et al.	6-1992

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mougin et al. (US 5,643,581) in view of Dunne et al. (US 5,125,546).

Mougin et al. teach cosmetic compositions containing a multiblock polycondensate containing a polysiloxane block and a polyurethane and/or polyurea block in an organic solvent. See Abstract; col. 3-8; col. 9, lines 34-48. The compositions can be used in hair care products in the form of aerosols. See col. 10, lines 37-39; col. 18, lines 54-66. The compositions of Mougin et al. can contain conventional cosmetic additives. See col. 11, lines 8-16. The Mougin et al. reference does not teach the specific container of the instant invention. However, such aerosol containers are known in the art of aerosol compositions. Thus, Dunne et al. teach an aerosol container containing a propellant gas and having an initial flow rate under 0.6 g/s and 0.35 mm nozzle diameter, which produce "a fine foam and good atomization". See col. 16, lines 6-11; col. 7, line 36. Therefore, it would have been obvious to one having ordinary skill

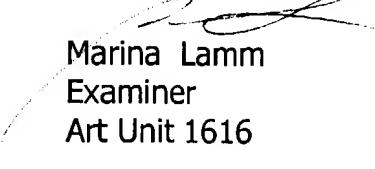
in the art at the time the invention was made to employ the aerosol containers of Dunne et al. for the aerosol hair care compositions of Mougin et al. for their art-recognized purpose. One having ordinary skill in the art would have been motivated to do this to obtain fine foam and good atomization as suggested by Dunne et al.

(11) Response to Argument

The Applicant argues that neither Mougin et al. nor Dunne et al. teach or suggest the multiblock polycondensates of the instant invention. See p. 6 of the Brief. In response, it is noted that the multiblock polycondensates of Mougin et al. appear to be identical to those claimed in the instant claims. Thus, the multiblock polycondensate of Mougin et al. contain a polysiloxane block, a diol and/or diamine, and a diisocyanate. See col. 3-8, specifically, col. 3, lines 22, 30-65; col. 4, lines 3-16; col. 7, lines 51-56; col. 8, lines 7-13, 24-25. With respect to the at least one diol containing at least one functional group chosen from acid radicals and salts thereof recited in the instant claims, that there appears to be no criticality associated with the above mentioned diol containing at least one acid group because the acid will be consumed in the process of making polyurethane. Absent the recitation of specific molar ratios that result in excess of acid group (so that the acid groups are still present in the resulting polymer), the polycondensate of Mougin meets the claim limitations.

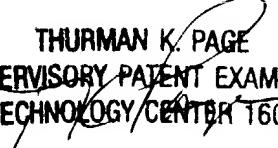
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Marina Lamm
Examiner
Art Unit 1616

ml
June 6, 2004

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